

### **REMARKS**

Claims 1-5, 10-13, 15, 17-21 and 23-47 are pending in the application. Claim 1 is amended. Claim 47 is added. Claims 6-9, 14, 16 and 22 are cancelled. Claims 2-4, 12-13, 15, 20-21, 24-25, 27-30, 33-38, and 44-45 are listed by the Examiner as withdrawn. Thus, Claims 1, 5, 10, 11, 17-19, 23, 26, 31, 32, 39-43, 46 and 47 are presently under examination.

Support for the amendment to claim 1 can be found, for example, in paragraphs [0033]-[0035] and [0038].

Support for new claim 47 can be found, for example, in paragraphs [0040] to [0042].

Hence, no new matter is added.

### **Examiner Interview**

Applicant wishes to thank the Examiner for the courtesy of an interview extended to their undersigned representative on February 2, 2010. Applicant is in agreement with the Interview Summary dated February 5, 2009.

### **Rejection Under 35 U.S.C. 112, Second Paragraph**

Claims 1, 5, 10, 11, 17-19, 23, 26, 31, 32, 39-43 and 46 are rejected under 35 U.S.C. 112, second paragraph. This rejection is believed to be moot in view of the above amendment to claim 1.

Specifically, the rejection was based on confusion arising from the Examiner's understanding that the claimed pockets referred to pockets *within* the microparticles, whereas the claimed pockets instead intended to refer to pockets (i.e., spaces) *between* the microparticles. Such pockets may be formed, for example, by the processes described in claims 17 and 18, among others. This confusion is believed to have been rectified by the above amendment to claim 1.

Withdrawal of the rejection is requested.

**Rejection Under 35 U.S.C. 103(a) – Harish, Mathiowitz, Ragheb or Su**

Claims 1, 5, 10, 11, 17-19, 23, 26, 31, 32, 39-43 and 46 under 35 U.S.C. 103(a) as being unpatentable over Harish et al. (WO02/26162) in view of any of Mathiowitz et al. (WO95/24929), or Ragheb et al. (U.S. 5,824,049) or Su et al. (U.S. 6,844,024).

This rejection is believed to be moot in view of the above amendment to claim 1. For example, the rejection was based on the Examiner's understanding that the claimed pockets referred to pockets *within* the microparticles, whereas the claimed pockets instead refer to pockets (i.e., spaces) *between* the microparticles.

Withdrawal of the rejection is requested.

**CONCLUSION**

Applicants submit that the pending claims are in condition for allowance. Reconsideration is requested and an early Notice of Allowance is requested.

Should the Examiner be of the view that an interview would expedite consideration of this Response or of the application at large, the Examiner is requested to telephone the Applicant's attorney at the number listed below in order to resolve any outstanding issues in this case.

Dated: February 9, 2010  
Attorney for Applicant  
Mayer & Williams, PC  
251 North Avenue West, 2<sup>nd</sup> Floor  
Westfield, NJ 07090  
Tel.: 703-433-0510  
Fax: 908-518-7795

Respectfully submitted,

/David B. Bonham/  
David B. Bonham  
Registration No. 34,297